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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,294	01/22/2004	Alexei Nikolaevich Shkarubo	U 014999-3	7791

7590
Ladas & Parry
26 West 61st Street
New York, NY 10023

EXAMINER

HALL, DEANNA K

ART UNIT	PAPER NUMBER
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3767

MAIL DATE	DELIVERY MODE
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08/01/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/763,294

Applicant(s)

SHKARUBO ET AL.

Examiner

Deanna K. Hall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date February 23, 2004.
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on February 23, 2004 is in compliance with the provisions of 37 CFR 1.97(b). Accordingly, the IDS is being considered by the Examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Shkarubo RU 2160058.** Shkarubo discloses:

A device for placing medical instruments, comprising: a body with an instrumental guide, a means for preliminarily fixation of a medical instrument, a trigger with a depth scale applied onto the body, and a means for delivering a medical instrument consisting of telescopic tubes arranged inside the body, of which one is immovably coupled with the body and the second one is movable, spring-loaded, mounted with its end portion in a body end face guide and has a detent for retaining said medical instrument and an

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arresting device provided in a body slot movable in a longitudinal direction and cooperate with the end face of the slot; the trigger being disposed on the body with a faculty of travel, fixation and interaction with the detent to set a depth of mounting of said medical instruments, see Claim 1, characterized in that the smallest portion of said movable tube within said stationary tube is at least one-half the outer diameter of said movable tube, and the distance between said body end face guide and the end portion oriented thereto of said stationary tube is from 2 to 25 outer diameters of said movable tube, see Fig. 1, and more important, said means for preliminary fixation of a medical instrument and the medical instrument retention detent are adapted to interact with the medical instrument introduced from one and/or the other end of the body see Page 5 column 2 lines 53-60 and Page 6 column 2 lines 6-13.

The trigger is configured as a collar and a double-arm spring-loaded lever hinge jointed with the collar, the latter has an adjusting screw, and one arm of the spring-loaded double-arm lever has a surface for cooperation with the detent, see Claim 2.

The instrumental guide is a hollow needle connected to said body via a connector and a cone being congruent thereto and provided on the first tube, see Claim 3.

The instrumental guide is configured as a Tuohy needle, see Claim 4.

The body is provided with a cap arranged on its end on the side of said instrumental

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guide, said cap retaining said means for delivering a medical instrument in said body, see Claim 5.

The means for preliminary fixation a medical instrument and said detent for retaining a medical instrument are spring grips of one-sided and/or double-sided action, see Claims 7-8.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deanna K. Hall whose telephone number is 571-272-2819. The examiner can normally be reached on M-F 8:00am-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on 571-272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Deanna K. Hall
Examiner
AU 3767

dkh



LOAN H. THANH
PRIMARY EXAMINER